

MAR 07 2008

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Transmission Date: **07 March 2008**

Docket: **1009-029**

Transmission #: **1** of Total Transmissions: **1**

Pages in this Transmission: **6** of Total Pages Transmitted: **6**

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Petition to Review a Decision of Technology Center Director Under 37 CFR 1.181
(3 sheets)

Fee Transmittal Form (PTO/SB/17) (1 sheet)

Credit Card Payment Form (PTO-2038) (1 sheet)

Application Number 10/622,259
Confirmation No.: 3269
Filing Date: 18 July 2003
Document Submission Date: 07 March 2008

Art Unit: 2182
Examiner: Hassan, Aurangzeb
Inventor: Hausman, Steven Michael
Docket: 2002P20760US01 (1009-029)

07 Mar 2008

Date

Kelly B. Smoker

Name of Certifier

Kelly B. Smoker

Signature of Certifier

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CENTRAL FAX CENTER**

MAR 07 2008

PATENT

Application 10/622,259

Attorney Docket 2002P20760US01 (1009-029)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) **Hausman, Steven Michael**
Application **10/622,259**
Confirmation **3269**
Filed **18 July 2003**
Application Title **Automatic Configuration of a Remote Modem**
Art Unit **2182**
Latest Examiner **Hassan, Aurangzeb**

Mail Stop Petitions

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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130.00 OP

**PETITION TO REVIEW A DECISION OF TECHNOLOGY CENTER DIRECTOR
UNDER 37 CFR 1.181**

Per MPEP 1002.02, Applicant respectfully petitions the Director of the USPTO or his proper delegate to review the implicit decision of the Technology Center Director to "deny by ignoring" or "refuse to act on" Applicant's previous petition to withdraw the finality of the Office Action dated 19 October 2007 due to that Office Action's failure to address the substance of Applicant's arguments traversing the rejection of claims 1-32.

A. Facts Involved

1. On 19 October 2007, the USPTO issued an Official Action (the "Office Action") that finally rejected claims 1-32 of the present application.
2. On 19 December 2007, Applicant filed a Reply to the Office Action, that Reply traversing the final rejections of claims 1-32.
3. Also on 19 December 2007, Applicant filed a Petition to withdraw the finality of

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those rejections due to their failure to address the substance of Applicant's arguments.

4. On 20 February 2008, Applicant filed a Petition for Supervisory Review again requesting prompt withdrawal of the finality of the rejections of claims 1-32, and prompt issuance of an Office Action fully responsive to the 19 December 2007 Reply.
5. No Advisory Action has yet been issued responsive to the 19 December 2007 Reply.
6. No Decision has yet been issued responsive to the 19 December 2007 Petition.
7. No Decision has yet been issued responsive to the 20 February 2008 Petition.
8. Each of the above facts is established by the official record found in PAIR.

B. Points to be Reviewed

1. Delays in the USPTO's prompt withdrawal of the finality of the 19 October 2007 Office Action unreasonably and unfairly fall on Applicant in the form of extension fees and fees for a Request for Continued Examination or Notice of Appeal, as well as loss of an opportunity to refute the improperly final grounds of rejection.
2. Even if the Petition to Withdraw Finality were promptly denied, delays in the USPTO's prompt issuance of an Advisory Action unreasonably and unfairly fall on Applicant in the form of extension fees.
3. Thus, given that the USPTO has had more than sufficient time to withdraw the finality of the 19 October 2007 Office Action and/or to issue an Advisory Action responsive to the 19 December 2007 Reply, Applicant respectfully interprets these delays as an implicit refusal to act on the part of the Technology Center Director.

C. Action Requested

4. For the above-stated reasons, Applicant respectfully requests that the implicit refusal to act on the part of the Technology Center Director be reviewed by the Director of the USPTO or his proper delegate.

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5. As explained in the 19 December 2007 Petition, Applicant respectfully submits that the finality of the 19 October 2007 Office Action is premature. Thus, Applicant respectfully requests that the finality of the 19 October 2007 Office Action be promptly withdrawn and that notice of that withdrawal be promptly provided to Applicant.

6. If the 19 December 2007 Petition is denied, Applicant respectfully requests prompt issuance of an Advisory Action responsive to the 19 December 2007 Reply.

Submitted herewith please find the Petition fee under 37 C.F.R. 1.17 (h), which Applicant respectfully requests be refunded.

CONCLUSION

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC


Michael N. Haynes

Date: 07 March 2008

Registration No. 40,014

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PTO/SB/17 (12-04)

Approved for use through 07/31/2008. OMB 0561-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27.**TOTAL AMOUNT OF PAYMENT** (\$) **130.00****Complete if Known**

| | |
|----------------------|---------------------------|
| Application Number | 10/622,259 |
| Filing Date | 18 July 2003 |
| First Named Inventor | Hausman, Steven Michael |
| Examiner Name | Hassan, Aurangzeb |
| Art Unit | 2182 |
| Attorney Docket No. | 2002P20760US01 (1008-029) |

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CENTRAL FAX CENTER**MAR 07 2008****METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 50-2504 Deposit Account Name: Michael N. Haynes

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |

2. EXCESS CLAIM FEES

| Fee Description | Small Entity Fee (\$) | Fee (\$) |
|---|-----------------------|----------|
| Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent | 50 | 25 |
| Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent | 200 | 100 |
| Multiple dependent claims | 360 | 180 |

| Total Claims | Extra Claims | Fee (\$) | Fee Paid (\$) | Multiple Dependent Claims | Fee (\$) | Fee Paid (\$) |
|---|--------------|----------|---------------|---------------------------|----------|---------------|
| - 20 or HP = | 0 | 50 | 0 | | | |
| HP = highest number of total claims paid for, if greater than 20 | | | | | | |
| Indep. Claims | Extra Claims | Fee (\$) | Fee Paid (\$) | | | |
| - 3 or HP = | 0 | 210 | 0 | | | |
| HP = highest number of independent claims paid for, if greater than 3 | | | | | | |

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
|--------------------------------|--------------|--|----------|---------------|
| - 100 = | | 0 | 250 | 0 |
| (round up to a whole number) x | | | | |

4. OTHER FEE(S)

| | Fee Paid (\$) |
|---|---------------|
| Non-English Specification, \$130 fee (no small entity discount) | 0 |
| Other: Petition fee under 37 C.F.R. 1.17 (h) | 130 |

SUBMITTED BY

| | | | |
|-------------------|--------------------------|-------------------------|------------------------|
| Signature | <i>Michael N. Haynes</i> | Registration No. 40,014 | Telephone 434-972-9888 |
| Name (Print/Type) | Michael N. Haynes | Date | 07 Mar 2008 |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.